

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14176, of Connecticut Way Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to permit construction of a roof structure which does not meet the normal setback requirements of Paragraph 5201.24, a special exception under Paragraph 5303.11 to waive the rear yard requirements and a variance from the roof structure floor area ratio requirements (Paragraph 3308.14) to construct a retail and office building in a C-4 District at premises 816 Connecticut Avenue, N.W., (Square 165, Lot 17).

HEARING DATE: September 19, 1984

DECISION DATE: October 3, 1984

FINDINGS OF FACT:

1. The subject property is located on the west side of Connecticut Avenue, between H and I Streets and is known as premises 816 Connecticut Avenue, N.W. It is zoned C-4.

2. The subject property has a frontage along Connecticut Avenue of 28.5 feet and a depth of approximately ninety-four feet. The total lot area of the site is 2,667 square feet.

3. The subject site is currently improved with a three-story vacant structure. At the time of the public hearing, the applicant had obtained demolition permits and razing of the existing structure was in process.

4. The applicant proposes to construct a twelve-story office building on the subject site with possible retail use on the first floor. The gross floor area of the proposed structure would be approximately 26,670 square feet.

5. The subject site is abutted on the north and south by office buildings 130 feet high, with roof structures above that level. There is an SP-2 District approximately 200 feet to the south. Lafayette Square is half a block to the south. The subject site is served by a Metrorail station on the northwest corner of the subject block, as well as several bus lines within three blocks of the subject site. No off-street parking spaces are required.

7. The applicant is seeking special exception relief pursuant to Sub-section 3308.2 and Paragraph 5303.11 and a variance from Paragraph 3308.14.

8. Sub-section 3308.2 of the Zoning Regulations provides that where impracticable because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area which would tend to make full compliance unduly restrictive, prohibitively costly or unreasonable, the Board is empowered to approve the location and design of any or all of such structures even if such structures do not meet the normal setback requirements of the respective zone district, provided the intent and purpose of the section is not materially impaired thereby and the light and air of adjacent buildings are not affected adversely.

9. Paragraph 5201.24 of the Zoning Regulations provides that housing for mechanical equipment, or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which located, provided such housing or penthouse is set back from all lot lines a distance equal to its height above the roof of the top story.

10. The applicant proposes to construct a twelve-story building, 130 feet in height, with a penthouse structure measuring 18.5 feet in height. The roof structure will contain elevator machinery, cooling tower, exit stair, and air conditioning fans, pumps and related equipment required to meet building, elevator and other code requirements.

11. The proposed roof structure will conform to the 18.5 foot setback requirement on the east and west sides of the building facing Connecticut Avenue and a public alley. No setback is proposed for the north and south sides of the property where the proposed building will abut existing twelve-story structures with similar roof structures.

12. Due to the narrow width of the lot, compliance with the 18.5 foot setback requirements on the north and south sides would exceed the width of the lot. If the specified 18.5 foot setback were provided on one side, the roof structure would be limited to a width of ten feet.

13. The applicant's architect testified that the roof structure requires a width of eighteen feet for the elevators and machine room and that additional width is required for mechanical equipment and stairs. An 18.5 foot setback on one side of the building is, therefore, not feasible.

14. The subject lot is abutted on the north and south sides by existing large office buildings, on the east by

Connecticut Avenue and on the west by a public alley. The applicant is, therefore, unable to increase the size or width of the subject lot to eliminate the need for the requested special exception.

15. There will be little or no impact on surrounding uses because the adjacent buildings to the north and south, where the roof structure will abut the lot lines, are of similar height as the proposed structure.

16. The subject site will not have a roof structure on a property line abutting a street or alley. Because of the location and height of the adjacent structures to the north and south, the noncomplying sides of the subject roof structure will be only as visible from the street as the roof structures on the adjacent building. The roof structure will meet the setback requirements on the east side, facing Connecticut Avenue, and on the west side adjoining a public alley.

17. Paragraph 5303.1 requires a rear yard of twenty-seven feet for the subject building in the C-4 District. An average rear yard of 22.8 feet is proposed. A variance of only 4.2 feet or 15.5 percent is required.

18. The proposed building will provide windows in the front and the rear of the structure. These windows will be separated from facing buildings so as to provide sufficient light and air and to protect the privacy of building occupants. Specifically, the front windows will be approximately 130 feet away from the building directly across Connecticut Avenue and the rear windows will be approximately thirty-eight feet away from the building across the public alley.

19. Pursuant to Sub-sections 7202.1 and 7302.1 of the Regulations, the subject structure does not require any parking spaces or loading berths. The project architect testified, however, that the rear of the building is serviced by a fifteen foot alley which will provide adequate off-street service functions. Commercial parking is available nearby.

20. The proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property because the subject site is located in a C-4 District and is surrounded by twelve-story office buildings.

21. The roof structure, as proposed, exceeds the permitted floor area ratio of 0.37. A variance from Paragraph 3308.14 is, therefore, required.

22. Due to the size of the subject property, the requirements of Paragraph 3308.14 would permit a roof structure of 987 square feet. The proposed roof structure is 1,272 square feet in size. The additional floor area requested for the roof structure will accommodate essential mechanical equipment. There will be no occupiable or rentable space in the roof structure.

23. The narrowness of the subject site in conjunction with the inability to increase the lot size due to existing adjacent structures creates an exceptional situation for the applicant, which is inherent in the land, and causes practical difficulties for the applicant since the building could not be redesigned to take advantage of the permitted floor area ratio while still complying with all other aspects of the Zoning Regulations.

24. The proposed roof structure will be compatible in terms of materials and design, with the facade of the proposed structure and adjacent roof structures.

25. The Office of Planning, by memorandum dated September 12, 1984, recommended approval of the application. The Office of Planning was of the opinion that the applicant met the special exception criteria pursuant to Sub-section 3308.2 and 5303.11. The Office of Planning was further of the opinion that the narrowness of the subject site, coupled with the applicant's inability to increase the lot size due to existing improvements, creates an exceptional condition inherent in the property, thus justifying the granting of the requested area variance. The Board concurs with the recommendation of the Office of Planning.

26. Advisory Neighborhood Commission 2B made no recommendation on the application.

27. A representative of the owner of the property immediately north of the subject site appeared at the public hearing in opposition to the application. That opposition was based on the following:

- a. The proposed roof structure, if not set back as required, will adversely impact on the light and air to neighboring buildings and the public alley and will expose neighboring buildings to noise, heat and exhaust emissions.
- b. The special exception from the rear yard provisions will directly affect the light and air of the building to the north of the subject site by cutting off approximately four feet of the westernmost tier of windows and will encroach upon the narrow, crowded condition of the public alley at the rear of the site.

- c. The applicant has not demonstrated that it would encounter exceptional practical difficulties as a result of strict application of the Zoning Regulations.
- d. There is no extraordinary or exceptional condition of the property which would justify the requested area variance.

28. In rebuttal, the applicant offered an alternate design at the public hearing, marked as Exhibit No. 23 of the record, which would provide more light and air to the adjacent building to the north, by leaving the last tier of windows uncovered. However, the alternate plan creates a greater projection into the rear yard and the resulting configuration results in less functional interior space at the rear of the building.

29. The applicant's proposal does not cover any windows of either adjacent building which cannot be covered as a matter of right.

30. If the applicant constructs a building in strict compliance with the Zoning Regulations, the resulting structure would be eight stories in height. The roof structure would not be subject to set back requirements. The cornice lines of the proposed structure would not match those of the adjacent structures. The roof structure would be at the same level as the ninth and tenth stories of the adjacent buildings and would, therefore, be clearly visible to the occupants of adjacent buildings and would subject those occupants more directly to any noise, heat or exhaust emissions from the roof structure.

CONCLUSIONS OF LAW AND OPINION

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking two special exceptions and an area variance. In order to be granted the requested special exception relief, the applicant must demonstrate, through substantial evidence, compliance with the requirements of Sub-section 3308.2 and Paragraph 5303.11. The Board concludes that the applicant has met the burden of proof.

The Board concludes that because of operating difficulties and narrowness of the building lot, full compliance with the strict requirement of the Zoning Regulations would be unduly restrictive and unreasonable. The location of the proposed roof structure abuts structures of similar height and with similar roof structures. Because of its height and bulk, the proposed roof structure will not affect adversely nor will it impair the light and air of adjacent buildings. It will be barely visible from the street. The proposed

building is sufficiently separated from other buildings so as to provide sufficient light and air and protect the privacy of occupants of facing buildings. The building will have adequate off-street service functions although no parking or loading spaces are required.


With regard to the area variance, the granting of which requires a showing of a practical difficulty inherent in the property itself, the Board concludes that the narrowness of the site coupled with the inability to increase the lot size due to existing adjacent structures creates such practical difficulties. The proposed roof structure is in harmony with the main facade and is compatible with adjacent roof structures. The Board concludes that granting the requested relief will not impair the intent, purpose or integrity of the Zoning Regulations.

Further, the Board concludes that the proposed roof structure will be in harmony with the general purpose and intent of the zone plan. Accordingly, it is ORDERED that the application is GRANTED subject to the condition that the construction shall be in accordance with the plans marked as Exhibit No. 20A of the record.

VOTE: 4-0 (Douglas J. Patton, Maybelle T. Bennett, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

3 DEC 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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